



UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
06/003,914	02/21/97	BROWN P	NRWB:006

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EXAMINER	
TWEEL, J	
ART UNIT	PAPER NUMBER
2736	9

DATE MAILED: 03/21/98

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☒ is extended to run _____ or continues to run 3 mos. from the date of the final rejection
- b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).
- ☒ Applicant's response to the final rejection, filed 7/6/98 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- a. ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
 - b. ☐ They raise new issues that would require further consideration and/or search. (See Note).
 - c. ☐ They raise the issue of new matter. (See Note).
 - d. ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
 - e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: _____

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.
3. ☒ Upon the filing an appeal, the proposed amendment ☐ will be entered ☒ will not be entered and the status of the claims will be as follows:

Claims allowed: _____

Claims objected to: 20, 23 + 26

Claims rejected: 9-19, 21, 22, 24, 25, 27 + 28

However;

- ☐ Applicant's response has overcome the following rejection(s): _____

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because see attached

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other

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1. The request for reconsideration has been considered but does not overcome the rejection because the arguments are not deemed fully persuasive.

Primarily, the error of the applicant's arguments reside within the incorrect interpretation of the applied references. Particularly, it is upheld by the applicant that "Neither Whyte nor Shuey uses a main inductor to allow a low frequency power signal to pass through the inductor in a low impedance path from the network to the electricity output." The Examiner respectfully disagrees. As plainly stated in the Summary of **Shuey**, the circuit as taught by the disclosed invention is tuned for the frequency that is used for power line communication message intended for receipt by receivers that are associated with the transmitter. Also, the applicant's assertion that a main inductor in a low impedance path from the network to the electricity output prevent the reception of power line communication messages by receivers for which the messages were not intended. As this property is also addressed in the disclosure of **Shuey**, it appears that the applicant has suffered from a misinterpretation of the applied references to serve his arguments against the proper rejection.

Also, for reasons not clear to the Examiner, the arguments raised by the applicant seem to rely solely on piecemeal analysis of the applied references. From the versatile role of the capacitor (No. 52) of **Shuey** in which the capacitor is used to transmit messages to its associated remote receivers (Nos. 26a-26d) and the shunt capacitors of **Whyte** (No. 98) that clearly provide a path from the transmitter through the inductor to ground, the improvements achieved by these

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advantageous circuit components offer plain evidence that the combination thereof would prevent the receipt of power line communication messages by receivers for which the messages were not intended. In response to the applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). The information gleaned solely from the references applied and not the applicant's disclosure offer overwhelmingly substantial evidence that a combination thereof would achieve the advantages stated herein. Just because the applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious.

The Final Official Action, according to the applicant, continues to make an unsupported suggestion that it is commonly known to make high-current, power-line inductors made by wrapping conductive material around an elongated ferrite rod as well as using shunt capacitors to control excess voltage in case of a current load in an electric circuit. The applicant also upholds that the Patent and Trademark Office has the burden of coming forward with supporting evidence. The Examiner heartily agrees. The Examiner refers the applicant to many various sophomore-level electrical engineering textbooks in which these electrical properties are presented and

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reiterated to undergraduate students for use in construction of transformer windings and capacitive protection circuits so that the proper electronic components can be used for their inherent advantages. Should the applicant not fully comprehend these theories, the Examiner may refer the applicant to his own university reference volumes.

2. Any inquiry concerning this communication should be directed to Examiner John Tweel at telephone number (703) 308 7826. The examiner can normally be reached on Monday-Thursday, 8:30a-5:00p. The examiner can also be reached on alternate Fridays.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Hofsass, can be reached on (703) 305 4717. The fax phone number for this group is (703) 305 3988.

John Tweel

July 15, 1998



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